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U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIF.

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Attorney for Plaintiff
Matthew K. Potts

**UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA**

C/BZ

MATTHEW K. POTTS, an individual,
Plaintiff,
v.

CASE NO.

C07 05213 BZ

VF OUTDOOR, INC., a Delaware
Corporation, and DOES I through X,
Defendant(s).

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

COMPLAINT

Plaintiff Matthew K. Potts, (hereinafter, also, "Plaintiff," "Plaintiff Potts,"
or "Potts") for his complaint against Defendant VF Outdoor, Inc., (hereinafter,
also "VF Outdoor") alleges:

JURISDICTION

1
2
3 1. This action concerns a United States patent and claims of infringement of
4 that patent by Defendant VF Outdoor, and arises under the Patent Laws of the
5 United States, Title 35 United States Code §100 *et seq.* This Court has jurisdiction
6 under the Patent Laws of the United States, 35 U.S.C. §§100 *et seq.*, including, in
7 particular §281, and under Title 28 United States Code. §1338(a).

8
9 **VENUE**

10
11 2. Venue is proper in this judicial district under 28 U.S.C. §1400(b) in that
12 this is a judicial district in which Defendant VF Outdoor has committed acts of
13 infringement and has a regular and established place of business. Venue is also
14 proper in this district under 28 U.S.C. §1400(b) in that this judicial district is a
15 judicial district in which Defendant VF Outdoor resides, within the meaning of 28
16 U.S.C. §1391(c).

17
18 **PARTIES**

19
20 3. Plaintiff Potts is a natural person who resides in the City of Fremont, County
21 of Alameda, State of California.

22
23 4. Defendant VF Outdoor, Inc. (hereinafter also referred to as "VF Outdoor")
24 is a corporation doing business within this judicial district and maintaining a
25 regular and established place of business in Alameda County, California, at 2013
26 Farallon Drive, San Leandro, California.

1 5. The true names and capacities of Defendant(s) Does 1 through 20, whether
2 individual, corporate, associate, or otherwise, are presently unknown to Plaintiff
3 and, therefore, Plaintiff sues Defendant(s) Doe by fictitious names. Plaintiff will
4 amend this Complaint to allege the true names and capacities of Defendant(s) Doe
5 when the same have been ascertained.

6
7 6. Plaintiff Potts is informed and believes, and thereon alleges, that at all times
8 herein mentioned, each Defendant was the agent, servant, and employee of each of
9 the remaining Defendant(s), and was at all times acting within the purpose and
10 scope of said agency and employment, with the knowledge and consent or
11 ratification of each of the other Defendant(s) in doing the things herein alleged.

12
13 7. Plaintiff Potts is informed and believes, and on that basis alleges, that each
14 of these fictitiously named Defendant(s) is responsible in some manner for the
15 damages alleged herein.

16
17 **CAUSE OF ACTION FOR PATENT INFRINGEMENT**
18

19 8. Plaintiff Potts realleges and incorporates paragraphs 1 through 8 as though
20 fully set forth herein.

21
22 9. On August 1, 2000, United States Patent No. 6,094,844 (hereinafter the
23 “ ‘844 patent”), for an invention titled "SHOE POCKET AND METHOD OF
24 USE,” was duly and legally issued to Matthew K. Potts, who is now, and has been
25 at all times since the date of issuance of the ‘844 patent, the owner of said patent
26 and of all rights thereto and thereunder. A copy of the ‘844 patent is attached to
27 Plaintiff’s complaint in this action.

1 10. Plaintiff has licensed the '844 patent to New Management, Inc., which
2 licensee has been engaged in selling and distributing footwear that is covered by
3 the claims of the '844 patent, since September, 2001.

4
5 11. Plaintiff Potts has given notice of the '844 patent by causing his licensee,
6 New Management, Inc., to duly and properly mark with the patent number the
7 products covered by the patent and sold by New Management, in accordance with
8 Title 35, United States Code § 287.

9
10 12. Plaintiff Potts is informed and believes and thereon alleges that Defendant
11 VF Outdoor has infringed and is now infringing the claims of the '844 patent by
12 making, or causing to be made, using, and selling, within the Northern District of
13 California and elsewhere within the United States, shoes embodying the invention
14 claimed therein, specifically including the Reef brand "Stash" model, and that it
15 will continue to do so unless enjoined by this Court. Such infringement is willful
16 and deliberate, notice of the existence of the said patents having duly placed on all
17 of Plaintiff Potts's licensee's products that are covered by the patent.

18
19 13. Plaintiff Potts has been damaged and has suffered irreparable injury due to
20 the acts of infringement by Defendant VF Outdoor in that the infringement of said
21 patent has deprived Plaintiff Potts of sales which Plaintiff Potts' licensee, New
22 Management, Inc., otherwise would have made, and has in other respects injured
23 Plaintiff Potts and will cause Plaintiff Potts added injury and loss of profits, and
24 Plaintiff Potts will continue to suffer irreparable injury unless Defendant VF
25 Outdoor's activities are enjoined by this Court.

26
27 14. Plaintiff Potts has suffered and will continue to suffer substantial damage to

1 its business in the form of loss of profits by reason of Defendant VF Outdoor's acts
2 of patent infringement as alleged above. Potts is at present unable to estimate the
3 full extent of the monetary damages suffered by reason of VF Outdoor's acts of
4 patent infringement but will provide such proof at trial.

5
6 15. Plaintiff Potts is informed and believes and thereon alleges that, Defendant
7 VF Outdoor has committed these acts willfully and maliciously, and in wanton
8 disregard of Potts's rights, justifying an award of treble damages pursuant to 35
9 U.S.C. §284.

10
11 **PRAYER FOR RELIEF**

12
13 **WHEREFORE**, Plaintiff Potts prays for relief as follows:

- 14 a. For a preliminary and permanent injunction enjoining Defendant VF
15 Outdoor, its officers, attorneys, agents, affiliates, employees, and
16 those persons in active concert or participation or privity with it who
17 receive actual notice of the order by personal service or otherwise,
18 from making, using, selling or advertising, or aiding the selling or
19 advertising of shoes that come within the claims of the '844 patent;
- 20 b. For a finding that, by the acts complained of herein, Defendant VF
21 Outdoor has engaged in infringement of the '844 patent in violation
22 of the Patent Act, 35 U.S.C. §100, *et seq.*;
- 23 c. For damages, in an amount to be fixed by the Court in accordance
24 with proof, including punitive and exemplary damages as
25 appropriate, including specifically Defendant VF Outdoor's profits or
26 gains of any kind resulting from its acts of infringement
- 27 d. For a finding that Defendant's acts of infringement and unfair

1 competition are willful and wanton, and justify an award of treble
2 damages, and for an award of such damages;

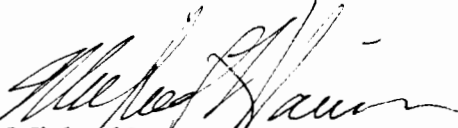
3 e. For an award of prejudgment interest;

4 f. For an award of all costs, including attorneys' fees incurred, in
5 prosecuting this action;

6 g. For an order awarding to Potts such other and further relief as the
7 Court may deem just and proper.

8 h. For trial by jury on all matters herein so triable.

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10 Date: Oct. 10, 2007

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12 Michael L. Harrison
13 HARRISON & KAYLOR
14 Attorney for Plaintiff Matthew K. Potts
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